

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

KENNETH THUNDERBIRD,

Plaintiff,

Civil No. 08-1404-PK

v.

ORDER

STATE OF OREGON, MAX WILLIAMS,
MARK NOOTH, SNAKE RIVER MEDICAL
FACILITY, STEVE SHELTON, G. GULICK,
SNAKE RIVER SECURITY DEPARTMENT,
BASSETT, CAIN, HOLLOPSTER, McNIT,
HENSLEY, STRINGER, ADAMS, SHEPPARD,
PATRICK, NURSE HODGE, NURSE GRIFFIN,
NURSE V. CLARK, NURSE KELLER,
MERRIT, HUNT, KUDRAM, GROSS, DEAN,
BULILSONS, WILSON, NURSE JOHNSTON,
S. JOHNSTON, MS. HICKS, TRCI MEDICAL
FACILITY, HAYES, and HANSEN,

Defendants.

HAGGERTY, District Judge:

Magistrate Judge Papak has issued a Findings and Recommendation [91] in this action. The Magistrate Judge recommended that plaintiff's Second Amended Complaint [90] be construed as properly filed, and that defendants' Motion to Dismiss [80] be denied as moot with

leave to refile if warranted. The Magistrate Judge also recommended that plaintiff's Motion for Discovery [87] be denied with leave to refile. No objections were filed, and the case was referred to this court.

The matter is now before me pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b). When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation of the Magistrate. *Campbell v. U.S. Dist. Ct.*, 501 F.2d 196 (9th Cir. 1974).

No clear error appears on the face of the record. This court adopts the Findings and Recommendation in its entirety.

CONCLUSION

The Findings and Recommendation [91] is adopted. Plaintiff's filing on October 5, 2010 is construed to include an informal motion for leave to amend, and plaintiff's Second Amended Complaint [90] is deemed to be properly filed. Defendants' Motion to Dismiss [80] is denied as moot with leave to refile. Plaintiff's Motion for Discovery [87] is denied, but plaintiff is granted leave to refile if he intended the subpoena to issue to a third party and not one of the defendants in this action.

IT IS SO ORDERED.

DATED this 1 day of November, 2010.

/s/ Ancer L. Haggerty
Ancer L. Haggerty
United States District Judge